

Notice of Allowability

Application No.

09/891,865

Examiner

David J Steadman

Applicant(s)

BESTETTI ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed September 30, 2004.
2. ☒ The allowed claim(s) is/are 43.
3. ☒ The drawings filed on 09 October 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

David J. Steadman, Ph.D.
Primary Examiner
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DETAILED ACTION

Status of the Application

- [1] Claim 43 is pending in the application.
- [2] In a telephone conversation with Ms. Heather Morehouse Ettinger on November 24, 2004, it was clarified that Italian patent application MI 98 A 002892 is the same as Italian patent IT1304500. In other words, the documents are one and the same.

Examiner's Amendment to the Specification

- [3] Applicants' claim for domestic priority under 35 U.S.C. 121 in the declaration filed March 11, 2004 is acknowledged. In accordance with MPEP 1302.04, an informal examiner's amendment follows to perfect the priority claim by amending the first paragraph of the specification.

- [4] Insert the following paragraph at the first paragraph of page 1 of the specification:
- This application is a continuation of PCT/EP99/10416, filed December 23, 1999.

Examiner's Amendment to the Claims

- [5] An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During

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a telephone conversation conducted on November 24, 2004, Ms. Heather Morehouse Ettinger requested an extension of time for 2 MONTH(S) and authorized the Director to charge Deposit Account No. 04-0100 the required fee of \$215 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

[6] Replace claim 43 with the following:

43. A plasmid vector having the sequence of SEQ ID NO:1, SEQ ID NO:2, SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:5, SEQ ID NO:6, SEQ ID NO:7, SEQ ID NO:8, SEQ ID NO:9, SEQ ID NO:10, SEQ ID NO:12, SEQ ID NO:13, SEQ ID NO:14, or SEQ ID NO:15.

Reasons for Allowance

[7] The following is an Examiner's statement of reasons for allowance. The examiner has found no teaching or suggestion in the prior art directed to the claimed plasmid vectors of SEQ ID NO:1-10 and 12-15. SEQ ID NO:1 (vector pGM679) is described at p. 7 of the specification as a *udp* gene cloned into a pUC18 vector. The specification teaches (pp. 17-18) that during construction of this vector, PCR primers were used to amplify the *udp* gene and incorporate an upstream *KpnI* restriction site and a downstream *Sall* restriction site for cloning into the corresponding restriction sites of pUC18. Even if this were obvious to one of ordinary skill in the art, the specification

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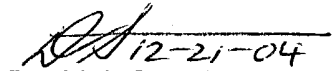
teaches that "four bases selected at random" were incorporated into the primer sequence following the *KpnI* restriction site. The examiner can find no teaching or suggestion in the art to incorporate four random bases downstream of a *KpnI* site and upstream of a *udp* gene for cloning into a pUC19 vector. Similarly, the specification teaches (pp. 18-19) that during construction of the vector of SEQ ID NO:3 (*deoD* gene cloned into pUC18), also referred to as pGM678, "four bases selected at random" were incorporated into a primer sequence following an *EcoRI* restriction site and the examiner can find no teaching or suggestion in the art to incorporate four random bases downstream of an *EcoRI* site and upstream of a *deoD* gene for cloning into a pUC18 vector. The *deoD* gene having the upstream four random bases was also incorporated into a pBAD24 vector for construction of SEQ ID NO:7 (pGM709). SEQ ID NO:2 (pGM708), SEQ ID NO:5 (pGM712), SEQ ID NO:6 (pGM716), SEQ ID NO:8 (pGM769), SEQ ID NO:9 (pGM771), and SEQ ID NO:10 (pGM795) are derivatives of SEQ ID NO:1. SEQ ID NO:4 (pGM707), SEQ ID NO:12 (pGM747), SEQ ID NO:13 (pGM751), SEQ ID NO:14 (pGM800), and SEQ ID NO:15 (pGM807) are derivatives of SEQ ID NO:3. All derivatives comprise the "four bases selected at random." Therefore, claim 43, drawn to a plasmid vector having the sequence of SEQ ID NO:1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, or 15 is allowable over the prior art of record. The enzymes encoded by the plasmid vectors are at least useful for the biosynthetic production of ribosides (see, e.g., US Patent 4,347,315).

[8] Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Steadman, whose telephone number is (571) 272-0942. The Examiner can normally be reached Monday-Friday from 7:30 am to 5:00 pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Art Unit receptionist whose telephone number is (703) 308-0196.

Handwritten signature of David J. Steadman, dated 12-21-04.

David J. Steadman, Ph.D.
Primary Examiner
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